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SURVEY OF AGENCY OVERTIME PRACTICES

I. BACKGROUND

A. Federal Employees' Pay Act

1. Public Law 763, 83rd Congress, (Fringe Benefits Act), amended provisions of the Federal Employees' Pay Act with respect to compensation for overtime work. Prior to these amendments, overtime pay was computed on a time and one-half basis for employees paid \$2,980 or less per year and on a decreasing scale amounting to less than straight time at higher annual salaries. The maximum compensation which could be paid, including overtime and holiday pay, was \$10,000. Under the terms of the amendments, the limiting salary levels were expressed in terms of GS grades rather than dollars and were liberalized. The effect of these amendments is to provide a time and one-half overtime rate to individuals paid at the minimum rate of a GS-9 (currently \$5,440) or less and to provide for payment at the GS-9 overtime rate in higher grades subject to a maximum compensation level of the top step of grade GS-15 (currently \$12,690).

2. Under the earlier provisions of the Pay Act, the election as to the form of compensation, i.e., premium pay or time off, rested in each case with the employee. The 1954 amendments provided that the employee would exercise this option if his pay rate was at or below the maximum rate of GS-9 (currently \$6,250) but that the employing agency would determine the form of compensation for employees at higher annual salaries.

B. Agency Policy

1. Following the enactment of the Fringe Benefits Act, the following policies were established governing the use of and compensation for overtime within the Agency (quoted from Tentative Regulation Hours of Work, para. 7 and 8):

Overtime and holiday work shall be kept to a minimum consistent with work requirements, and overtime and holiday work shall be authorized only when work requirements cannot be satisfactorily completed within the regularly prescribed tours of duty.

Payment for overtime and holiday work performed or compensatory time off in lieu of overtime pay shall not be allowed unless the work has been authorized prior to its performance, and the employee concerned has been specifically ordered to perform the work. (NOTE: There is a subsequent provision for claims for overtime worked under unusual operational circumstances not permitting advance approval.)

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An employee in grade GS-10 or below shall be paid overtime compensation in accordance with the rates and limitations provided by law or may, if he requests it not later than the end of the pay period in which the overtime was worked, be granted compensatory time off in lieu of payment. Compensatory time off will be granted for an amount of time equal to that spent in overtime work.

An employee in grade GS-11 or above normally will be granted compensatory time off in lieu of overtime pay for overtime work within the amounts permitted by law. However, when the Operating Official concerned establishes that it is not feasible to grant compensatory time off to an employee in this grade range, he will authorize payment therefor at the appropriate overtime rate within the limitations prescribed by law. In making the determination as to whether it is feasible to grant compensatory time off, the Operating Official concerned shall consider the following factors:

- (a) Whether the individual is in an essential position and cannot be spared to take compensatory time off;
- (b) Whether the individual has already accrued the maximum amount of annual leave and cannot be permitted to take currently accruing annual leave as well as compensatory time off.

2. At the same time, the authority to approve overtime, formerly vested in the Chief, Budget Division, was delegated to Operating Officials [Chiefs of Senior Staffs and Area Divisions under the jurisdiction of the Deputy Director (Plans); Assistant Directors under the jurisdiction of the Deputy Director (Intelligence); and Chiefs of Staffs and Directors of Offices under the jurisdiction of the Deputy Director (Support)] with a prohibition against redelegation of this authority to subordinate officials.

3. Although there is no legal limitation on the period of employment during which individuals may accumulate compensatory time off for subsequent use, the Agency established the rule that it must be used during the leave year in which earned except that an extension into the first four weeks of the succeeding leave year is authorized for compensatory time off earned during the last four weeks of a leave year. Previously, the Agency's rule had required immediate use (by the end of the pay period following the one in which earned).

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C. Basis for Survey

At the seventh meeting of the CIA Career Council, held on 2 February 1955, there was discussion of the effect of the new overtime provisions on Agency overtime practices. On 6 May 1955, the Assistant Deputy Director (Support) addressed a memorandum to the Chief, Management Staff, requesting that he designate a member of his staff to lead a team composed of representatives of the Comptroller and of the Director of Personnel to conduct a study of Agency overtime practices.

D. Survey Technique

The study team selected eight of the ten offices with the highest paid overtime rates and eight of the ten with the lowest paid overtime rates for the period 27 March - 2 July 1955 for study. The study was handicapped by the lack of data for foreign field stations and of data as to the accumulation and use of compensatory time off. Ten standard questions, designed to highlight any differences in administration of overtime or in philosophy as to its use and compensation, were constructed to guide discussions with officials of the offices selected for study. Comparative analysis of experience prior to the Pay Act amendments against subsequent experience was impractical because of the inadequacy of compensatory time records.

II. RESULTS OF SURVEY INTERVIEWS WITH OPERATING AND ADMINISTRATIVE OFFICIALS

Representatives of the study team interviewed members of the offices selected for study using the list of standard questions as a check point to ensure coverage of the same basic points in each interview. Participants were assured of the fact-finding nature of the study and the anonymity to be given the responding offices in reporting it. Comparative rates of the offices included are furnished below:

<u>High Use Offices</u>	<u>Av. Hours O/T per Empl. per Pay Pd.</u>	<u>Low Use Offices</u>	<u>Av. Hours O/T per Empl. per Pay Pd.</u>
No. 1	9.7	No. 8	1.6
No. 2	5.9	No. 7	1.4
No. 3	5.7	No. 6	1.2
No. 4	4.9	No. 5	1.2
No. 5	4.8	No. 4	1.2
No. 6	4.4	No. 3	1.1
No. 7	3.4	No. 2	0.8
No. 8	3.2	No. 1	0.3

Agency Average: 2.8 hours overtime
per employee per pay period

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RESPONSES TO SURVEY QUESTIONS

Question No. 1: What is the office interpretation of the Agency overtime policy?

Both the high and low users reported that overtime was used only when necessary to meet emergency workload conditions with the exception of one higher user which reported overtime was necessary to operate on a 24-hour day, 7-day week, and another high user who reported the necessity for operating on a 6-day week.

Question No. 2: Does the office have a policy on overtime? Is it a written policy? If policy is not written, what are the provisions of the understood policy?

Most of the offices had issued either formal internal instructions or informal memorandums. In general, these follow the Agency policy statement with amplification ordinarily in connection with payment provisions for GS-11's and over.

One of the high use offices states as a rule that any directed overtime will be compensated in pay. In contrast, two of the low use offices discourage overtime pay to individuals at GS-11 or over.

Another of the high use offices accepts overtime as a general condition of work because of its 7-day week operation. In another instance, irregular work flow, not subject to control of the office concerned was given as a main cause of overtime and prospective employees were advised to anticipate recurring overtime requirements.

An expressed requirement for specific justification was given slightly greater emphasis in the discussions with low use offices than high use offices. Also, the issuance of formal internal instructions was slightly more frequent in the low use offices suggesting the possibility of more serious attention to overtime administration.

Question No. 3: How does the office control overtime?

In general, the controls exercised over overtime were set at the initial approval point. Records of actual overtime worked were maintained in some of the low use offices but no such records were reported in the high use offices.

In both high and low use offices, there were instances of limits placed on the total hours of overtime any individual employee

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would be authorized to work or be compensated for - this ranged from 4 hours per week with no compensation if any sick or annual leave had been taken to 30 hours per pay period (15 hours per week). In both high and low offices, there were instances in which the initial approval was granted on a quota basis.

Question No. 4: Is overtime approved in advance? If so, by whom?

All offices studied reported prior approval was required. In several cases, this approval was on a quota basis by the office head and subordinate supervisors were authorized to direct actual overtime work within their quotas. In most cases, approval of the office head or his deputy was required.

Question No. 5: What justification must be given by components of the office for requesting overtime?

Except for two cases in which overtime was regularly planned on the basis of workflow, each office indicated specific statements of justification were required. Justifications based on meeting regular workload appeared with about the same frequency as those citing special or emergency requirements.

Question No. 6: Are all grades paid overtime? If so, why? If not, which grades are paid and which are given compensatory time off? If GS-11 and above are paid overtime, why was such determination made?

Because this was a key point in expressed feelings of variance in practice within the Agency, briefs of each response are given:

High Use Offices

No. 1 - All employees are paid overtime because staffing and workload will not permit use of compensatory time off.

No. 2 - All grades are paid overtime because employees, in many cases, are forfeiting annual leave and cannot be spared to take compensatory time off and annual leave.

No. 3 - All grades are paid overtime since workload will not permit all employees to take earned annual leave. Compensatory time off can be granted only in small amounts.

No. 4 - In grades GS-3/10, the employee is paid automatically unless he requests time off. In grade GS-11 and over,

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the employee determines whether he will be paid or receive compensatory time off. It was stated that workflow makes use of compensatory time impractical.

- No. 5 - All grades are paid overtime. It was indicated that the office head believed that anyone required to work overtime should be paid.
- No. 6 - In most cases, all grades are paid. Exceptions were not explained.
- No. 7 - All grades are paid overtime as staffing will not permit use of compensatory time. It was noted that higher graded officers did not claim much overtime, however.
- No. 8 - Option with employee below GS-11. At GS-11 and above, compensatory time off is granted rather than pay, except when the individual cannot be spared to take it by the end of the leave year.

Low Use Offices

- No. 1 - All overtime except Saturday duty is compensated for in time off.
- No. 2 - GS-9 and below are paid. GS-11 and over are granted compensatory time.
- No. 3 - GS-10 and below elect method of compensation. Except when supervisor cannot release employee to take the time off, GS-11 and above are granted compensatory time off.
- No. 4 - GS-10 and below elect method of compensation. GS-11 and above are initially credited with compensatory time but may subsequently convert to pay if unable to use.
- No. 5 - GS-10 and below elect method of compensation. GS-11's and above are directed to perform overtime only in unusual cases and are granted compensatory time off unless a special justification for payment is approved by the office head.
- No. 6 - All grades are paid as normal workload rarely permits granting of compensatory time.
- No. 7 - Same as No. 6, above.
- No. 8 - All grades are paid but higher graded employees rarely claim compensation.

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It can be observed that the high use offices have shown a greater tendency to predetermine the impracticability of granting time off than the low use offices. Since the rates are based only on paid overtime, it is possible that the actual overtime worked in the low use offices is more comparable to that of the high use offices with the apparent difference being represented in voluntary overtime or granted as compensatory time off. Records to establish this point are not available.

Question No. 7: If compensatory time off is given, how is it recorded? (On T&A's or is informal office record kept.)

In those offices which grant compensatory time off, it was reported as credited on T&A records. However, in most cases, the possibility of informal records in subordinate units in lieu of official recorded time was mentioned. It is probable that it is more or less customary at least in some units to maintain informal records of overtime worked without formal authorization as a basis for granting unrecorded compensatory time off.

Question No. 8: List, in order of occurrence, the most prevalent causes which necessitate the use of overtime by the office.

The responses to this question are also considered of sufficient interest to warrant reporting briefs of the individual replies.

High Use Offices

- No. 1 - Requirement for providing continuous service. Consider overtime cheaper than regular staffing to provide such coverage.
- No. 2 - Workload in excess of available manpower. High turnover rate. Crash jobs. Saturday duty.
- No. 3 - Understaffing. Emergencies.
- No. 4 - Necessity to produce on 6-day week. Incidence of crises; flaps occurring. Sick leave in smaller units.
- No. 5 - Crash assignments. Peak workloads. In some elements, understaffing.
- No. 6 - Individuals assigned to special projects and not under control of the office. General understaffing of office. Continuous operation of one unit. Emergency work requirements.

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No. 7 - Workload in excess of available manpower. Requirement for Saturday duty.

No. 8 - Special work requirements. Cyclical workload.

Low Use Offices

No. 1 - Deadlines set by White House or Department of State.

No. 2 - Flaps. Short deadlines. Staff studies. Changes in office programming. Preparation of annual budget.

No. 3 - Lack of control by office over a particular project.

No. 4 - Cyclical workload. Imbalance between workload and staffing (replacement of employees on sick or annual leave). Rescheduling of activities. Emergency requirements. Preparation of annual budget.

No. 5 - Emergency requirements. Saturday service (half-time).

No. 6 - Crash situations in other components. Deadline reports such as preparation of operational programs, annual budget, etc.

No. 7 - Understaffing. Crash operational situations. Saturday duty.

No. 8 - Understaffing.

Question No. 9: Can tours of duty be changed and thereby eliminate overtime?

In a few cases, it was indicated this had been done and in most cases it was indicated farther consideration would be given to this possibility. Two of the high use offices indicated it would be impractical and two others that it was a possibility only in certain elements.

Question No. 10: Does the office receive periodic letters from the Comptroller on the use of overtime?

All offices indicated they did receive such reports and used them as a basis for review or discussion.

III. INTERNAL POLICY AND PROCEDURAL STATEMENTS

The working group has collected a number of policy and procedural statements on overtime issued by various components (Attachment 1). In general, these

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issuances restate the Agency's policy and procedures for local application. In a number of cases, additional restrictions and limitations on the payment of overtime have been applied--not all of which are in keeping with the Agency's policy or the statutes on which it is based. Examples of such additional restrictions are prohibitions against payment for overtime worked during any period in which an individual has taken any leave, limitations on the number of hours of overtime for which an individual can be paid (regardless of hours worked), limitations on the grant of compensatory time off based on leave earning categories rather than on individual cases, and restrictions against payment for overtime worked between 7:30 and 8:30 a.m.

The primary defect in such restrictions and limitations is that they are directed to payment for overtime rather than to the use of overtime. For example, the requirement for emergency overtime is less likely to occur between 7:30 and 8:30 a.m. than immediately following the regular workday. Also, permitting employees to work at the earlier hours raises the question of whether the overtime is in conformance with the Agency's policy or for the convenience of an employee who would arrive at work early anyway in order to get a parking place. However, if the overtime has been properly authorized, the employee should not be penalized by prohibiting payment if he had to work immediately prior to his regular workday. As a further example, overtime worked immediately prior to a period of annual leave may appear to be for the convenience of the employee but it would be inequitable to deny payment in a case in which the circumstances did actually require the overtime. Similarly, an employee who has been absent on sick leave should probably not be required to work overtime immediately upon his return to duty; however, he should not be denied payment if he is required to work.

IV COMPARISON OF OVERTIME RATES WITH ANNUAL AND SICK LEAVE RATES

A. Sick Leave

Six of the eight high overtime use offices are at or over the Agency average in number of hours sick leave per employee per pay period while six of the eight low use offices are below the Agency average. Available data does not indicate whether the incidence of sick leave is attributable to the requirement for overtime or vice versa. Sustained excessive overtime work would probably have an adverse effect on health and morale but, in the absence of data as to voluntary overtime in either the high use or low use offices and the relatively small amounts of overtime involved per person in the overall rates, there is insufficient evidence for stating that such is the case here.

High Overtime Use Offices

No. 2	2.5
No. 8	2.5

Low Overtime Use Offices

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<u>High Overtime Use Offices</u>		<u>Low Overtime Use Offices</u>	
No. 7	2.4		
No. 5	2.3		
No. 6	2.3	No. 8	2.3
		No. 2	2.2
----- Agency Average - 2.1		-----	
No. 1	2.1		
		No. 6	2.0
		No. 5	2.0
		No. 4	1.9
		No. 7	1.9
No. 4	1.7		
No. 3	1.6	No. 3	1.6
		No. 1	1.3

B. Annual Leave

Six of the eight high overtime use offices are at or over the Agency average in number of hours annual leave per employee per pay period and five of the eight low overtime use offices are also over the average. This suggests that the inability to use compensatory time off as overtime compensation because of difficulty of granting annual leave may not be as common a situation as has been assumed.

<u>High Overtime Use Offices</u>		<u>Low Overtime Use Offices</u>	
		No. 1	7.2
No. 4	6.7	No. 6	6.5
No. 7	6.2	No. 3	6.1
		No. 2	6.0
Nos. 3, 4, 5	5.9	No. 7	5.8
----- Agency Average - 5.6		-----	
No. 2	5.6		
No. 6	5.4	Nos. 5, 8	5.3
No. 1	5.2	No. 4	5.0

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V. CONCLUSIONS

A. It is believed that the survey by the working group had a beneficial effect in focusing attention of Operating Officials on their administration of overtime and that periodic reminders of the importance of conscientious administration in their areas are desirable.

B. The present policy fixes responsibility for overtime administration at the most logical point. This policy places no absolute limitations on the use of overtime but relies on the judgment of senior Agency officials to direct overtime only when necessary. Statistical evidence and interviews with responsible officials offers no basis for concluding that the present overtime policy is not being conscientiously administered in most cases. There is no evidence that it is still necessary to limit approval authority to Office Heads and a general feeling that this responsibility should be redelegated.

C. Analysis of available statistics and the survey results discloses no significant trends and no radical differences among the components' studies which would indicate an avenue of approach to the reduction, elimination, or equalization of overtime. In only two closely related areas were there noticeable differentiations between the high and low users of overtime:

1. All but one of the high users cited understaffing among the causes of its overtime requirements.

2. All high users and the highest three of the low users indicated that compensatory time off in lieu of overtime pay was impractical because employees could not be spared to take time off.

D. There are significant differences among the various components in the application of discretionary authorities respecting the payment of overtime in grades GS-11 and above as opposed to granting compensatory time off in lieu thereof. The establishment of a uniform policy without such discretionary authority would eliminate such differences. Such a policy would necessarily recognize the option given by law to employees in GS-10 and below as to whether compensation for overtime which they are directed to work should be in the form of overtime pay or compensatory time off in lieu thereof.

E. No definite conclusions can be drawn as to the effect of Agency overtime use on health and morale. It might be noted that the highest overtime users had an 18.3% higher sick leave rate during the period studied than the low overtime use offices. However, this figure loses meaning when it is mentioned that the overtime use figures were for paid overtime only and there is no evidence that the same individuals

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who performed the paid overtime were those who used sick leave. Requirements for working overtime have not been offered by departing employees as a reason for leaving the Agency.

VI RECOMMENDATIONS

The working group recommends that:

- A. The Agency's present policy respecting the use of overtime be continued in effect.
- B. The Agency's present policy respecting compensation for overtime be modified to:
 - 1. Extend the employee's option as to form of compensation (pay or time off) through GS-12;
 - 2. Provide only compensatory time off to employees in grades GS-13 and above;
 - 3. Discourage the use of overtime in the hour immediately preceding the regular workday;
 - 4. Discourage overtime work by employees who have been absent on sick leave or are going on annual leave; and
 - 5. Authorize Operating Officials to delegate approval authority to a single senior subordinate with an alternate.
- C. Administration of overtime be periodically reviewed and evaluated through analysis of statistical data by the Comptroller who will refer apparent excessive use of overtime to the Management Staff for study and appropriate action.

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